

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JORDON R. WHIPPLE,

Defendant.

8:20-CR-245

**ORDER REGARDING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION ON PLEA OF
GUILTY**

This matter is before the Court on the magistrate judge's Findings and Recommendation on Plea of Guilty, [Filing 54](#), recommending that the Court accept the defendant's plea of guilty to Count I of the Indictment. There are no objections to the findings and recommendation. Nonetheless, the Court declines to adopt the findings and recommendation at this time.

Pursuant to [28 U.S.C. § 636\(b\)\(1\)\(C\)](#) and [NECrimR 11.2\(d\)](#), the Court has conducted a de novo review of the record. Count I of the Indictment charges Defendant with violating [18 U.S.C. §§ 1112\(b\)](#) and 1153, involuntary manslaughter committed within Indian country. [Filing 1 at 1](#). [18 U.S.C. § 1112\(b\)](#) provides for a potential term of incarceration of not more than eight years. *See* [18 U.S.C. § 1112\(b\)](#) ("Whoever is guilty of involuntary manslaughter, shall be fined under this title or imprisoned not more than 8 years, or both.").

When discussing penalties, the Petition to Enter a Plea of Guilty and the Plea Agreement both list the potential term of incarceration for involuntary manslaughter as six years. [Filing 52 at 5](#); [Filing 53 at 2](#). As a result, Defendant was not correctly informed of the maximum potential penalty she faces during her change-of-plea hearing. [Filing 57 at 7](#) (advising Defendant that she faced "a maximum of six years in prison"). Because Defendant was not informed of the maximum potential penalty she faces, it is the Court's intent to further inquire into this matter at the

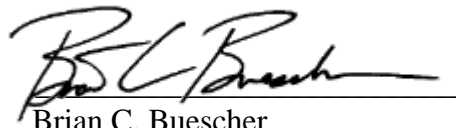
sentencing hearing currently set for September 21, 2022. [Filing 51](#). At that time, the Court will decide whether Defendant's plea of guilty should be accepted and whether the matter should proceed directly to sentencing. Counsel should be prepared to address this issue via interlineation immediately prior to the sentencing hearing. Accordingly,

IT IS ORDERED:

1. The magistrate judge's Findings and Recommendation on Plea of Guilty, [Filing 54](#), is held in abeyance;
2. This matter will be addressed at the sentencing hearing currently set for September 21, 2022; and
3. This case shall provisionally proceed to sentencing.

Dated this 13th day of July, 2022.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", is written over a horizontal line.

Brian C. Buescher
United States District Judge